

Sri J. P. SARVESH.—Sir, I want to know whether what the hon. Member is telling is correct or not. Please look into it.

Mr. SPEAKER.—I shall look into it.

Sri V. N. PATIL.—Sir, when a member is making a statement, it will have to be respected. Or else, kindly direct the office to give an acknowledgement when a notice is given.

Mr. SPEAKER.—I shall look into it.

Sri V. N. PATIL.—We are requesting the Chair to direct the office to immediately issue an acknowledgement to the concerned member when a notice is given, because it tells upon the honesty and integrity of the member. Let the office note the timing and give an acknowledgement. Let this procedure be started so that we can follow it with great respect.

ಶ್ರೀ ಅಜೀಜ್ ಶೇಖ್ (ನರಸಿಂಹರಾಜ).—ಸ್ವಾಮಿ, ಸ್ವಲ್ಪ ನಾವು ಹೇಳುವುದನ್ನು ತಾವು ಕೇಳಬೇಕು. ಇನ್ನು ಮುಂದೆ ಈ ಹೌಸಿನಲ್ಲಿ ಏನಾದರೂ ವಿಚಾರ ಮಾತನಾಡಬೇಕಾದರೆ ನೋಟೀಸು ಕೊಟ್ಟು ಮಾತನಾಡಬೇಕು ಎಂದು ಹೇಳುತ್ತೀರಿ. ಆದರೆ ಅರ್ಜಿಂಟಾಗಿ 12-30 ಗಂಟೆ ವೇಳೆಯಲ್ಲಿ ನಮ್ಮ ಗಮನಕ್ಕೆ ಒಂದು ವಿಚಾರ ಬಂದರೆ ಅದನ್ನು ಸರಕಾರದ ಗಮನಕ್ಕೆ ತರಬೇಕೆಂದು ನಮ್ಮ ಮೂಲಕ ಕೇಳಿಕೊಳ್ಳಬೇಕಾಗುತ್ತದೆ. ತಾವು ಈ ಸಭೆಯ ಅಧ್ಯಕ್ಷರಾಗಿ ನಮ್ಮಿಂದಲೇ ಆರಸಿ ಬಂದಿರುವುದರಿಂದ ನಾವು ತಮ್ಮಲ್ಲಿ ಕೇಳುತ್ತಿರುವುದು ಸರಕಾರದವರ ಗಮನವನ್ನು ಅರ್ಜಿಂಟಾಗಿ ತಮ್ಮ ಮೂಲಕ ಕೇಳುವುದು ಸರಿಯಲ್ಲವೇ? ತಮಗೇನೋ ತಮ್ಮ ಸೆಕ್ರೆಟೇರಿಯಟಿನವರು ಹೇಳಿದರು ಎಂದು ಹೇಳುತ್ತೀರಿ. ಇಲ್ಲಿ ಒಬ್ಬ ಮಾನ್ಯ ಸದಸ್ಯರು ಇಂದು ಬೆಳಿಗ್ಗೆ 10 ಗಂಟೆಗೆ ಒಂದು ನೋಟೀಸನ್ನು ಕೊಟ್ಟರು ಎಂದು ಹೇಳುತ್ತಾರೆ. 10-30 ಗಂಟೆಗೆ ಬಂತು ಎಂದು ತಾವು ಇಲ್ಲಿ ಹೇಳುತ್ತೀರಿ. ಹೀಗೆ ತಾವು ಹೇಳುವುದಾದರೆ ನಮಗೇನೂ ಇಲ್ಲಿ ನ್ಯಾಯ, ಮರ್ಯಾದೆ ಯಾವುದೂ ಇಲ್ಲವೇ? ನಿಮ್ಮ ಸೆಕ್ರೆಟೇರಿಯಟಿನವರು ಸರಕಾರದ ಗುರಾಮರಾಗಿರುವಂತೆ ನಾವು ಇರಬೇಕೆಂದು ಹೇಳಿದರೆ ನಾವೇನು ಮಾಡಬೇಕು?

Mr. SPEAKER.—Let us take up the next item on the agenda. I request the Hon. Minister for Development to introduce the Bill.

Mysore Agricultural Produce Marketing (Regulation) (Amendment) Bill, 1969

Introduction.

Sri H. SIDDAVEERAPPA.—Sir, I rise to a Point of Order. I shall be very brief. I would like to urge at this stage that I am not entering into the merits or demerits of the Bill, so that afterwards it may not be said that I have already spoken on this Bill and that no opportunity will be given to me. I invite your kind attention to Rule 70 in the first instance, and it reads as follows :—

“(1) Whenever a Bill seeking to replace an Ordinance with or without modification is introduced in the Assembly there shall be placed before the Assembly along with the Bill a statement explaining the circumstances which necessitated immediate legislation by Ordinance.”

(SRI H. SIDDAVEERAPPA)

I emphasize the words " immediate legislation by Ordinance. Sub-clause (2) reads as follows :—

" Whenever an Ordinance, which embodies wholly or partly or with modification the provisions of a Bill pending before the Assembly, is promulgated a statement explaining the circumstances which necessitated immediate legislation by Ordinance shall be laid on the Table at the commencement of the session following the promulgation of the Ordinance."

There are two points involved in this. This Bill seeks to replace an Ordinance. I do not know what it contains, because only when we came here at One O'Clock we saw this ; until then we were not given this Bill. Whether it is exactly in the same manner as the Ordinance or whether it contains any other provision, I am not in a position to say now. When this Ordinance was placed, it was incumbent on the part of the Treasury Benches to have given the reasons ; a statement explaining the reasons which necessitated the immediate issue of this Ordinance should have been given. That is my first objection.

With regard to sub-clause (2), I need not paraphrase it, because it is explicit. It has not been complied with. In other words, Rule 70 has been violated in placing this Ordinance. This very Bill cannot be allowed to be introduced, because it is a Bill which needs the prior assent of the President even for promulgation. Even after the publication it needs prior assent. I do not think the Treasury Bench has not taken into consideration the report of the Select Committee in the year 1966. This Select Committee report was presented on 29th January 1966. Fortunately or unfortunately Sri K. Puttaswamy was the then Chairman of that Select Committee. He has very clearly stated in para 118 on page 41 of the Report and it reads as follows :

" The provisions now recommended by the Committee are of a substantive nature relating to the regulation of trade and commerce, and in the opinion of the Committee are necessary for the proper working of the market committees and are in public interest. The sanction of the President under the proviso to clause (b) of Article 304 of the Constitution of India for moving the Bill with the amendments in the Legislature may also be obtained."

This is what has been stated. Further he brought this Bill as reported by the Select Committee for consideration. This was brought before the House on 30-3-1966 and the proceedings were reported in Volume IV Nos. 1 to 10 from 18th March 1966 to 30th March 1966 at page 673. The Hon'ble Minister Sri K. Puttaswamy was in charge of the Bill. He has stated as follows :

" The provisions now recommended by the Committee are of substantive nature relating to the regulation of trade and

Commerce and the Committee felt that they were necessary for the proper working of the Marketing Committees and that they were in public interest. Therefore, the sanction of the President under the proviso to clause (b) of Article 304 of the Constitution of India for moving the Bill with the amendments in Legislature, was found necessary and it has been obtained."

They are aware that this Bill needs prior assent of the President. I am referring to Article 304 and other articles. I may also bring to the notice of the hon. House article 213 about the legislative powers of the Governor which makes the position very clear. The article 213 sub-clause (1) makes the position very clear and it reads as follows :

" Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if—

(a) a Bill containing the same provisions would under this Constitution have required the previous sanction of the President for the introduction thereof into the Legislature; or

(b) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President."

There are so many other Articles with regard to the legislative powers where it is very clear that prior consent of the President is *sine quo non* even for the introduction of the Bill.

Regarding Article 304 about which I have already said, I shall read a portion of it. This article deals with Trade Commerce and Intercourse within the territory of India. Articles 301, 302, 303 deal with the same subject. Article 301 reads as follows :

" Notwithstanding anything in Article 301 or Article 303, the Legislature of a State may, by law—

(a) impose on goods imported from other States (or the Union Territories) any tax to which similar goods manufactured or produced in that State are subject, so, however as not to discriminate between goods so imported and goods so manufactured or produced, and

(b) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest."

Most important thing is the proviso.

It reads as follows :

" Provided that no Bill or amendment for the purposes of clause (b) shall be introduced or moved in the Legislature of a State without the previous sanction of the President."

(SRI H. SIDDAVEERAPPA)

The Governor's consent is different and the President's assent is different. If the Hon. Minister says that the Ordinance had the prior assent or the consent of the President, I withdraw my objection. If there is no consent or assent of the President, my objections stand. The Governor's consent is different. The Governor might have given his consent illegally. What I want to know is whether the President's assent has been obtained or not. The Governor's consent cannot be equated with the consent of the President. Therefore in the absence of the President's consent, he shall not be allowed to introduce this Bill.

Mr. SPEAKER.—Has Sri K. H. Patil got anything to say in the matter?

† **Sri K. H. PATIL (Hubli).**—I mostly endorse the opinion of Sri Siddaveerappa. I don't want to waste time on this. Let the Public not think that we are wasting time like this. As per Rule 70 of the Rules of Procedure, a statement explaining the circumstances of the Ordinance should have been introduced at the commencement of the Session. But he has failed to do so at the commencement. The Session started on the 14th of this month. The Minister did not present the statement explaining the circumstances. Now he cannot come and say that the Bill is introduced today. At the commencement of the Session this Bill with the statement should have been in our hands. This is exactly what Mr. Siddaveerappa expressed in his own way. Along with the disqualifications that have been attached to this Bill, the hon. Minister should bear in mind that having failed in his duty to place it on the Table, this Bill cannot be introduced.

Secondly, hon. Member Sri M. Nagappa has already moved a disapproving resolution to the ordinance. When that disapproving resolution has not been brought up for consideration, I do not know, how this Bill could be introduced. This House is quite anxious to discuss that resolution at length and take a decision thereafter on the introduction of this Bill. The Government may also think as to whether it is necessary to introduce such a Bill or not. Further the assent of the Governor is also not there. The Government have not at all disclosed the facts to this House. Therefore without disclosing the facts, this Bill cannot be introduced.

Thirdly, while disclosing the urgency, the Government has merely stated that since both the Houses were not in session it had to be promulgated. At the time of the commencement of the session at least the Hon. Minister could have presented a statement showing all the reasons that have necessitated the urgency in the matter. Merely because the Government feels the urgency in their own interest to do something illegal is not enough reason. Therefore, I feel, that the introduction of this Bill is illegal and it should not be permitted in the interest of democratic set up.

† Sri H. N. NANJE GOWDA.—Sir, here there are three things to be considered. Firstly even in respect of an ordinary Bill to replace the ordinance, under rule 70, the position has been explained by our elderly hon. Member Sri Siddaveerappa. The other point is that this Bill is *ultra vires*. The third point is when a constitutional question is involved, the Speaker cannot sit in judgement or drift. I will explain these three points in short.

Firstly I would like to explain as to how this Bill is *ultra vires*. In the Bill it is stated that the recommendation of the Governor has been appended to the Bill, but not the assent or the directions of the President to introduce this Bill. This Bill is covered by article 304 (b) because this deals with the imposition of restrictions on trade, commerce, etc. I would like to draw your attention, in this connection, to the Parliamentary Procedure in India by Sri A. R. Mukherjee wherein it is stated on page 252 :

“ Questions often arise as to whether a Bill is within the legislative competence of the legislature in which it is introduced and as to the function of the Presiding Officer if such questions are raised. The competence of the legislature is determined by various factors. Certain Bills (*e.g.*, Bills regulating trade and commerce) require the previous sanction of the President if they are to be introduced in State legislatures.”

Therefore, I say under article 304 (b) this is a Bill wherein sanction of the President is necessary and when such a sanction is not to be found, this Bill cannot be introduced.

When Bills which raise questions of legislative competency, are to be introduced, we have to bear the following, as stated in the last line on page 252 of the book “ Parliamentary Procedure in India ” :

“ The following principles should therefore be borne in mind when any question of legislative competence is raised. If a Bill is on the face of it inadmissible, *e.g.*, if it is sought to introduce a Bill which requires the previous sanction or recommendation of the Governor without such sanction or recommendation, the Presiding Officer will rule such a Bill to be out of order and inadmissible unless such sanction or recommendation is forthcoming. But if the competence of the legislature depends upon the construction of the Constitution or any question of law upon which different views may be held, the Presiding Officer would not take upon himself the responsibility of deciding such a question and prevent the Bill from being introduced or passed. The question whether such a Bill is *ultra vires* would have to be decided, if occasion arises, in a court of law. In short, if the admissibility of a Bill depends upon some question of procedure, the Speaker will decide the point and give his ruling either for or against the Bill; but if it depends upon some substantive question of law, the Speaker

(SRI H. N. NANJE GOWDA)

would not decide the question so as to prevent the Bill being introduced or passed. As has been expressed by Bourinot : 'The Speaker will not give a decision upon a constitutional question, nor decide a question of law though the same be raised on a point of order or privilege' "

Therefore, I say that the Hon. Chair cannot decide a constitutional question. Further, I may bring to your notice the following points given in the same book on page 253 :

" In a case in West Bengal a question arose whether the President's prior sanction was necessary to a Bill. The Government obtained legal opinion that it was not necessary. The Speaker, although he felt some doubt as to the soundness of the opinion, allowed the Bill to proceed in view of the fact that the defect if any, might be cured by the subsequent assent of the President. In Madhya Bharat, however, in a similar case, a Bill was not allowed to proceed without the President's sanction."

Therefore, my objection is that this Bill is *ultra vires* and it cannot be introduced and even according to the procedural aspect it is not possible for introducing this Bill. Therefore, I take serious objection to the introduction of this Bill.

Regarding the procedural aspect, however, the Hon. Chair might give its ruling, but in regard to the *ultra vires* nature of the Bill, I would request the Hon. Chair not to give its ruling. The best thing, in the present circumstances, for the Hon. Chair would be to direct the Government to either withdraw this Bill or obtain the previous sanction of the President.

MR. SPEAKER.—I want the Hon. Member to clarify one thing. The moment any Hon. Member says that the Bill is *ultra vires*, does the Hon. Member Sri Nanje Gowda mean to say that either the House or the Presiding Officer is precluded from proceeding with it further ?

SRI H. N. NANJE GOWDA,—That is what is stated in the book.

SRI S. R. BOMMAI (Kundgol).—Mr. Speaker, Sir, an important point has been raised. So far as introduction of the Bill is concerned, at the outset, the principal Act itself is not restrictive but regulatory. However, our Hon. senior member Sri Siddaveerappa quoted the Hon. Parliamentary Minister who was the Chairman of the Select Committee saying that the Act was restrictive. But there are a number of decisions of the Supreme Court.....

SRI K. H. PATIL.—Sir, the Hon. Member is making out another new point.....

Mr. SPEAKER.—The Hon. Member Sri Bommai is saying that there are certain cases decided by the Supreme Court wherein it is held that if there is a positive restriction which operates directly and immediately, then the provisions of article 304 (b) proviso would apply. But there are also cases decided by the Supreme Court which say if they are merely regulatory the provisions of the article 304 (b) are not attracted. The Hon. Member is saying that there is no restriction in the principal Act but only it is a regulatory one.

† **Sri S. R. BOMMAI.**—Sir, without taking too much time of the House, I only want to quote a few decisions bearing on this matter.

A I R 1961 Supreme Court P. 232

A I R 1961 P. 1406

A I R Supreme Court 147

A I R Supreme Court P. 509

A I R Supreme Court P. 1189

It has been held that such regulation would also be in the interest of the public and they are not restrictive, but they are regulatory. Therefore, without going into the merits of the principal Act, because assent has been already obtained for the Principal Act,—I would concede for the time being that the Principal Act contains some sections which may be restrictive and therefore assent has been obtained. The most important point that has been made is, whether the amendment that has been moved does not require the assent of the President. That is the point that has been raised. Here the ordinance has been promulgated and the Bill has been introduced. Whether that ordinance or Bill before the House is restrictive or regulatory is the point that should be examined. If it is restrictive then the assent of the President is necessary and if it is merely regulatory it is not necessary.

Sri H. SIDDAVEERAPPA.—I would like to know whether the Hon. Member has read this Bill, because it was given to me just now.

Sri S. R. BOMMAI.—Yes Sir.

Sri H. SIDDAVEERAPPA.—Were you given any advance copy?

Sri S. R. BOMMAI.—The Bill is published in the Gazette and therefore it is an advance copy for every one. The decision of the Andhra Pradesh High Court is, when the assent of the President has been obtained for the Principal Act, if an amendment is moved, that amendment need not receive the assent of the President. I am quoting in support of this :

A I R 1964 AP p. 266

It is said in this High Court ruling that the assent of the President is not necessary because the amendment does not in any way affect the free flow of trade and commerce. Therefore my submission is that the

(SRI S. R. BOMMAI)

present Bill, if it is read in detail, does not restrict free flow of trade and commerce. On the other hand, some of the provisions are designed to give administrative powers to an officer instead of a committee. I am referring to the explanation that has been given along with the Bill. It is self-explanatory. In view of the decision of the High Court, the committees that existed prior to the commencement of the Principal Act could not be continued.....

Mr. SPEAKER.—The Member need not go into merits.

Sri S. R. BOMMAI.—So, the question is whether the amendment is restrictive or regulatory. If it is regulatory there is no necessity for the assent.

Mr. SPEAKER.—So according to Sri Bommai, the amendments proposed are regulatory in nature and they are not restrictive.

I have got certain doubts. Yesterday, these matters were raised and I thought it better that I should go into them myself. With regard to the provisions of article 301, There are a number of decisions of the Supreme Court right from 1960 down to 1969 and they have made one point clear. I shall read one or two for the information of the House. This is a case of 1962 decided by the Supreme Court which is connected with the Transport of Rajasthan Limited. One point that is contested here is, regulatory measures are measures imposing compensatory tax, and whether it comes within the purview of article 301. It is said that such actions need not comply with the proviso to article 304 (b) of the Constitution. This has been repeated in all the Rulings. I want to tell the House that unless there is restriction which works directly and immediately, the assent of the president is not necessary, because the provisions of article 304 (b) are not attracted. I want you to tell me whether there are any provisions in the amendments here or in the Ordinance, which contain restrictions which operate directly and immediately so as to impede trade and commerce and the movement of goods.

Sri H. SIDDAVEERAPPA.—I thought that this was a very elementary principle. I did not expect my learned advocate-friend would come forward with his fanciful theory. I know that in the various decisions of the Supreme Court, the words used are restrictive and regulatory. As a matter of fact, in the latest decision of the Supreme Court—I thought it would not be necessary at this stage to refer to that: A.I.R. 1969 Supreme Court P. 137 and para 153. There is also another decision on the analogy of that in A.I.R. 1959, Supreme Court 504 p. 509. I could not get at the 1959 case. I have got the 1969 case which is the latest of these decisions. I have studied all the decisions cited by my friend. What they say is in a case where the provisions are restrictive of trade it is necessary if it is in the interest of trade.

But whether it is restrictive or regulatory, or whether it is partly restrictive and partly regulatory, it is certainly not for the Hon. Minister who has introduced this Bill to consider. Why is it that we want the prior consent of the President ?

Mr. SPEAKER.—I want to know whether there are any provisions in the amending Bill or the Ordinance which are regulatory or restrictive.

Sri H. SIDDAVEERAPPA.—They are completely restrictive and wholly divorced from the tenor of the Act by introducing clause 15. They have tried to amend Clause 10 and that is restrictive. I will go clause by clause.

Mr. SPEAKER.—The original Act or the Principal Act provides for the creation of market area, markets, market yards and sub-market yards and all that. Now this provision gives some additional power to declare certain areas as markets or sub-markets.

Sri H. SIDDAVEERAPPA.—That power is not given to the Chief Marketing Officer under the Principal Act.

Mr. SPEAKER.—How is it restrictive ?

Sri H. SIDDAVEERAPPA.—It is worse. It is arbitrary.

3-00 P.M.

The Chief Marketing Officer comes into the provisions for the first time. As a matter of fact, you will see in the schedule itself. There are as many as 78 illegal notifications that were issued and the High Court has held them to be illegal.

Sri K. PUTTASWAMY.—The High Court has not held them illegal, Sir.

Sri H. SIDDAVEERAPPA.—The most important thing about it, is : these transitory provisions, which is the crux of the whole problem :

“ 154 A : Notwithstanding anything contained in this Act or any of the enactments repealed by sub-section (1) of section 154 or any other law,

(a) on the 19th day of July 1969, the term of office of the members of every market committee and of the Chairman and Vice-Chairman thereof continuing to function under clause (c) under proviso to sub-section 1 of section 154 shall expire, and with effect from the said date, the powers conferred and the duties imposed on the market committee, the Chairman, the Vice-Chairman and any sub-Committee or other body constituted by the market committee shall be exercised and performed by the Administrator referred to in the Explanation to this section...”

(SRI H. SIDDAVEERAPPA)

“(c) The Administrator shall hold office until the date immediately preceding the date of the first meeting of the market committee constituted under section 11.”

I will explain how it is completely restrictive and alien to the provisions of the principal Act.

The Market Committee was an elected body. Now by this provision they have introduced an official element and according to this, no election can take place within one year. Time is not fixed. They say, ‘as soon as possible, steps will be taken’. They say it will not be possible for two years. What will happen till then, it is nowhere said in this Bill.

Mr. SPEAKER.—How does it restrict trade, commerce and intercourse ?

SRI H. SIDDAVEERAPPA.—It restricts because only one man is given the supreme power for running the entire trade and commerce of the area.

Mr. SPEAKER.—The member says that the powers that were given to the market committee, have now been transferred to the officer.

SRI H. SIDDAVEERAPPA.—That is a fundamental restriction. If you recollect the Market Act of 1966 you will see that powers were given only to the Chairman and he would safeguard the interest of the grower. It is a democratic process. Now it is set at naught. The High Court decisions which my learned friend referred to, have no bearing on this. The simple point that arose for consideration there was sections 10 and 11 and the very same Advocate General said, the old market committees have not been altered. It will be a retrograde step to continue them and they may be changed, until new elections take place.

One other point, I would like to say is this. The Chair will be pleased to bear with me on this particular point. They say the urgency arose...

Mr. SPEAKER.—We are at the point of introduction. We are not considering merits, or the democratic character or arbitrary character of the wording. The only point relevant under proviso to clause (b) of article 304 is, if it is restrictive it should get the consent of the president. If it is regulatory, it need not.

SRI H. SIDDAVEERAPPA.—I do not think the plain meaning of the words in the proviso to article 304 is properly understood. It is absolutely essential and even the Supreme Court in their judgement have said what are the conditions. Whether it is restrictive or regulatory or what may be the circumstances or the necessity for taking the consent of the President I need not say, because I do not have much time.

I have limited my arguments to two reasons and the very same Government admitted that. They cannot blow hot and cold. Moreover, there are already writ petitions in the High Court on this matter and there is the court to examine those petitions. Let it not be said, that here is a Government which is enacting haphazard legislation. I do not enter into the merits. Therefore, the only point that arises, whether it is restrictive or regulatory—all these things do not lie in the mouth of these people. The only authority who can speak about this is, the Advocate-General, who is also an hon. Member of this House. He is the proper person who can guide us and say whether it is within the competence of this House, or whether it requires the assent of the President or whether it is constitutional. Therefore, if you entertain any doubt on this point, I am making a humble suggestion, that the Advocate-General, an Hon'ble Member of this House may be called for and he may be heard in the matter before the Government and then the Speaker may give his ruling.

Sri K. H. PATIL.—Even the Hon'ble Member Sri Bommai referred to a decision of the Supreme Court and that decision has completely supported by Sri Siddaveerappa. They have stated that if there is no restriction, permission is not necessary. I am now coming to the dictionary meaning of 'restriction'. It means 'confine', 'bind' or 'limit within'. Having understood the dictionary meaning of the word 'restriction', let us see whether this amending Bill proposes any restriction. It is true that our Learned Minister for Parliamentary Affairs who was then the Chairman of the Select Committee has stated categorically that the Government had come with some amendments to the Joint Select Committee Reports. Having proposed so many amendments, the President's assent was necessary and accordingly it was sent and President has assented. The whole framework of the Bill depends upon clause 8. If amendments to sections 8 and 9 are taken away, then the entire Act becomes null and void. Especially in these amendments a good deal of notifications are sought to be issued. A notification is issued to establish a market committee. When a market committee is established, even the local authority has no power to establish a market yard under the Act. This Act requires me not only to follow some regulations but it restricts me.

Mr. SPEAKER.—How is it restrictive ?

Sri K. H. PATIL.—All the amendments are restrictive; not only the constitution of the market committee but even the sub-yards and even the definition clause are restrictive. That is the way in which we are to see this Bill.

† **Sri H. M. CHANNABASAPPA (Periyapatna).**—Sir, for very good reasons Government decided that a Bill of this kind, namely, the Agricultural Produce Marketing (Regulation) (Amendment) Bill is a Bill which imposes reasonable restrictions on the freedom of trade. It is for that reason that the Hon'ble Minister for Parliamentary Affairs

(SRI H. M. CHANNABASAPPA)

rightly came to the conclusion that the President's assent was necessary and it is for that reason that he obtained the President's assent. Now, the present Bill intends to replace the Ordinance that has been promulgated a few days back. The very name of the Bill indicates what exactly will be the provisions of the amending Bill; the provisions of the Bill are intended to place reasonable restrictions on marketing. There is very little difference between regulation and restriction. The law by its very implication places restrictions on trade and but for that they would not have obtained the previous consent of the President. Now, you are very particular to know where exactly is the restrictive character. If it is said that you shall carry on business and trade in this particular area and not elsewhere, does it not place restrictions on the movement of commodities and on trade? In section 6 the proviso makes it clear that in respect of any market area, the Chief Marketing Officer may fix up some other market. He may make his own choice. Does it not indicate that this Bill provides for introducing restrictions on the movement of commodities? Therefore, it would be a grave mistake if we say that this Act does not place any restrictions. We are not going to lose anything by calling upon the Advocate-General to explain the legal aspects; on the contrary we will gain much. It would also be dangerous even for the Chair to try to interpret the Constitution. With these observations I would submit that the Hon. Minister for Parliamentary Affairs would do well to have further consultation with the Advocate-General, so that we may also be better educated. I want this to be enlightened by competent men instead of our groping in darkness. This hon. House will be well advised to have the benefit of advice of the Advocate General.

Sri D. B. KALMANKAR (Aland).—The proviso to Art. 213 states :

“Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if—

(a) Bill containing the same provisions would under this Constitution have required the previous sanction of the President for the introduction thereof into the Legislature ; or

(b) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President ; or

(c) an Act of the Legislature of the State containing the same provisions should under this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.”

Mr. SPEAKER.—We are now at the stage whether the Bill which is to replace the ordinance can be introduced.

† Sri D. B. KALMANKAR.—I am reading only to show that there is no such distinction made between restrictive or regulative. The proviso to Art. 304 is clear. What I am submitting is, the Mysore Agricultural Produce Marketing (Regulation) Act, is an Act to regulate the activities. If we see the original Act, we know that it has received the assent of the President. So the whole Act is regulative in nature. My submission is that the whole Act regulates the activities of the Market. Now the words sought to be inserted, for example “area”, are restrictive in nature. Some restrictions are also being placed and the possibilities are that market places can be changed. Secondly an Administrator can take charge and the existing marketing societies which have to function democratically can go before the expiry of their term and an arbitrator is expected to take charge. So, my submission is that even at the time of introduction, we can raise these points. The best possible way would be to take the advice of the Advocate-General and this matter may be decided then.

Sri M. NAGAPPA (Raichur).—I have some apprehension because I have moved a disapproval resolution which has been admitted. The same point is going to be covered in that particular motion. If the Hon. Chair is giving any ruling, I wanted to know whether I would be shut out from speaking on the same point at that time. If it is not so, definitely I will raise it.

Mr. SPEAKER.—I might assure the Members that no relevant points will be shut out even at the consideration stage. The only question before me is whether the hon. Minister should be permitted to introduce the Bill. I am not going to say anything on the merits of the Bill. It is open to the House to take any decision.

Sri M. NAGAPPA.—Further I want to know whether the Chair is going to observe anything about the matter, whether it is restrictive or regulatory? If the Chair were to say it is restrictive, I think the Parliamentary Affairs Minister and other members may take objection.

Mr. SPEAKER.—Whether the Bill is *ultra vires*, or whether it is not good, or whether it is restrictive or arbitrary, all these things can be argued at the consideration stage.

† Sri M. NAGAPPA.—I do not want to go into the facts which have already been stated by my other friends. I am very happy that one of the members from the Congress Benches has brought to the notice of the House about the series of rulings by our esteemed High Court and the highest court of the land, the Supreme Court. Now the point for consideration is whether the Bill which is going to be introduced before the House imposes any restriction on the trade or business of the State or agriculturists or businessmen or trader or anybody else. I want to bring to the notice of the Chair the two clauses which definitely restrict not only the businessmen but even the producer, *i.e.*, agriculturists.

(SRI M. NAGAPPA)

Now, if we want to know whether it is restrictive or not, we have to consider the important clause of the Bill first, *i. e.*, Clause 11—insertion of a new section 154 A :

“ Notwithstanding anything contained in this Act or any of the enactments repealed by sub-section (1) of section 154 or any other law ;.....”

Mr. SPEAKER.—It need not be repeated ; it is there.

3-30 P.M.

SRI M. NAGAPPA.—I want to contend that there is also a similar provision in the original regulation Section 113 of the Act. It may kindly be perused by the Hon. Chair before considering the transitory provisions—Clause 11—section 154 A. According to the Supreme Court, or any other Court's decision if any deadlock is created, sufficient provision has already been made in the Act. Therefore, further conferring of any rights would create contradictory versions in law and would cause restrictions on trade and working of the Market Committees.

Secondly, a very anomalous position has been created by this particular Ordinance, wherein a very funny thing has been created. A Taluk Market Committee will be supervised by a Tahsildar, and if it is a sub-divisional headquarter, the Assistant Commissioner will supervise, and if it is a district headquarter, the Deputy Commissioner of the District will supervise. For the consideration of the Chair and the Hon. Minister, I will give a concrete instance. Koppal is an ordinary market, whereas Gangavati is the biggest market in the district. Koppal being a sub-divisional headquarter, the Assistant Commissioner will be the head of the Market Committee, which has very little business compared to the business going on in Gangavati. Gangavati market, though it is the biggest market in the district, is being supervised by a Tahsildar. In this case, the powers that are conferred on a Tahsildar are more than the powers conferred on the Assistant Commissioner, who is a superior officer and an appellate authority. Such a funny thing has been created by this regulation.

Mr. SPEAKER.—I think the member is giving his views regarding the operation of Article 304.

SRI M. NAGAPPA.—I am contending about the restrictions. The Deputy Commissioner is deemed to be a more superior officer than a Tahsildar. It is a simple formula. It is very anomalous to hand over the biggest Market Committee to a Tahsildar and the smallest Market Committee to the Deputy Commissioner, because the Tahsildar cannot be deemed to be a good officer to control properly a big Market Committee like that of Gangavathi.

Section 89 of the original Act deals with power of Committee and Chairman to impose penalties. The Committee can pass a fine up to Rs. 25 whereas the Chairman is only competent to pass a fine of Rs. 5. Here, the powers are vested with the Administrator, who will function not only as a Chairman of the Committee, but also he will be deemed to be functioning as the Committee. As all the powers are now given to the Tahsildar, who is also competent to levy fine, he may pass a fine of Rs. 25 saying that he is a Committee. He is given abundant power without creating any bar or limitation; there is no restriction. If he is functioning as a Committee what are his powers and if he is functioning as a Chairman what are his powers—this should be clarified. Otherwise, it is a restriction, causing harm not only to the trader but also to the producer. I would like to ask the Chair whether it is not a restriction. It should be a regulation for the better administration. There should be good relations between the producers and the market Committees. The producers should not be under the clutches of the trader. So, it was thought to impose certain conditions. Otherwise, it was being done in the old days by the Deputy Commissioner, alone. Does it not take away the power vested on the elected bodies? Section 10 was there, which is being amended now. As per that section, they should have appointed certain Committees. So far as my knowledge goes, the Hon. Minister cannot say that the High Court has not said that the working of the present Committee is incompetent or unconstitutional. The High Court has stated in a Writ Petition filed from Raichur District that the Committees constituted are validly constituted and are entitled to function. Secondly Section 10 is being amended.

I am coming to one other aspect. Under Section 11 there would be a representative body rather than a dictator like the Administrator. Therefore Section 10 has been abrogated. The Government could have appointed or nominated certain members under Section 10. Instead of that the administrative Committee is being appointed which amounts to imposing restrictions. Therefore with these observations I submit that all these clauses that have been brought are creating restrictions on trade and business of every Market Committee. Therefore I submit that it can be very well said that it comes under the purview of Article 213 and also Article 304 (b). It may be ruled that unless the recommendation of the President is brought, this Bill will not be permitted to be introduced.

†ಶ್ರೀ ಎಚ್. ಬಿ. ಜ್ಯಾಲನಯ್ಯ (ಹಾಸನ).—ಸ್ವಾಮಿ, ನಾನು ಅತಿ ವಿನಯದಿಂದ ಒಂದು ವಿಷಯವನ್ನು ತಮ್ಮ ಮುಂದೆ ಇಡಬಯಸುತ್ತೇನೆ. ಈ ಮಾನ್ಯ ಸಭೆಯಲ್ಲಿ ಬಹು ಜನ ಸದಸ್ಯರು ವಕೀಲರುಗಳು ಆಗಿಲ್ಲ. ರಾಜ್ಯಾಂಗದಲ್ಲಿರುವ 304 ಸೆಕ್ಷನಿನಲ್ಲಿರುವ 'ರೀಸನಬಲ್ ರೆಸ್ಪಿಕ್ಟ್' ಎನ್ನುವ ಶಬ್ದಗಳ ಬಗ್ಗೆ ತಾವು ಈಗಾಗಲೇ ಯಾವ ರೀತಿಯಾದ ಇಂಟರ್‌ಪ್ರಿಟೇಷನ್‌ನ್ನು ಕೊಡುವುದಕ್ಕೆ ಹೋಗಿಬಾರದು. ರಾಜ್ಯಾಂಗದಲ್ಲಿರುವ ಎಲ್ಲ ವಿಚಾರಗಳನ್ನೂ ನಾವು ಸರಿಯಾಗಿ ಸಮರ್ಥನೆ ಮಾಡಬೇಕಾಗಿ ಬರುತ್ತದೆ. ಈಗಾಗಲೇ ನಮ್ಮ ಸಭೆಯ ಮಾನ್ಯ ಸದಸ್ಯರಾದ ಶ್ರೀಮಾನ್ ಸಿದ್ದವೀರಪ್ಪನವರು ಸೂಚನೆ ಮಾಡಿದಂತೆ ನಮ್ಮ ರಾಜ್ಯದಲ್ಲಿರುವ ಅಡ್ವೋಕೇಟ್ ಜನರಲ್‌ರವರನ್ನು ಈ ಸಭೆಗೆ ಕರೆಸಿ ಇದರಲ್ಲಿರುವ ಕೆಲವು ಶಬ್ದಗಳು ಎಂದರೆ, ರೆಸ್ಪಿಕ್ಟ್‌ ಮತ್ತು ರೀಸನಬಲ್ ರೆಸ್ಪಿಕ್ಟ್‌ ಎನ್ನುವ ಶಬ್ದಗಳ ಬಗ್ಗೆ ಯಾವ ರೀತಿ ಅವರು ಅಭಿಪ್ರಾಯ ಕೊಡುತ್ತಾರೆ

(ಶ್ರೀ ಎಚ್. ಬಿ. ಜ್ವಾಲನಯ್ಯ)

ಎನ್ನುವುದನ್ನು ತಿಳಿದುಕೊಂಡು ಆ ನಂತರ ತಾವು ರೂಲಿಂಗ್‌ನ್ನು ಕೊಟ್ಟರೆ ಅದಕ್ಕೆ ಯಾವ ಆಕ್ಷೇಪಣೆಗಳೂ ಬರಲಾರದು. ಇಲ್ಲಿ ಆತುರಾತುರದಿಂದ ಇಂತಹ ಕಾನೂನುಗಳನ್ನು ಮಾಡುವುದು ಬೇಡ. ಮತ್ತು ಈ ಸಭೆಯಲ್ಲಿ ಪಕ್ಷೀಲರಲ್ಲದೇ ಇರುವ ಸದಸ್ಯರುಗಳ ತಿಳುವಳಿಕೆಗೂ ಇಂತಹ ವಿಚಾರಗಳು ಚೆನ್ನಾಗಿ ತಿಳಿಯಲು ಒಂದು ಅವಕಾಶ ಸಿಗುತ್ತದೆ. ಇದಕ್ಕಾಗಿ ತಾವು ಇಲ್ಲಿಗೆ ಅಡ್ವೊಕೇಟ್ ಜನರಲ್‌ರವರನ್ನು ಕರೆಯಿಸಿ ಇದರ ಬಗ್ಗೆ ಸರಿಯಾದ ತಿಳುವಳಿಕೆ ಪಡೆಯಲು ನಮಗೂ ಒಂದು ಅವಕಾಶ ಕಲ್ಪಿಸಿಕೊಡಬೇಕೆಂದು ನಾನು ತಮ್ಮಲ್ಲಿ ಕೇಳುತ್ತೇನೆ.

† Sri S. SIVAPPA.—The Hon. Members of this House have discussed in detail and have brought to the notice of the Chair certain aspects of the Bill, which are restrictive in nature. There is a provision in the Rules of Procedure that whenever there is such confusion, it is better to bring the Advocate-General before this House to explain and clarify the position. He is also an Hon. member of this House. This House requires his valuable suggestion on this subject. I request you that there is nothing wrong in bringing the Advocate-General to clarify these controversial issues raised by Hon. members. Interpretation of Constitution is also there. Therefore the Chair may kindly arrange to get him here to clarify the vital points that have been raised here. The Chair is also competent to clarify the points. I have no doubt that you are an eminent Lawyer. With all that there is nothing wrong in getting the advice of the Advocate-General.

Sri P. M. NADGOUDA (Minister for Development).—Article 301 of the Constitution of India which provides for Trade and Commerce.....

Sri K. H. PATIL.—May we take it as read, because he is reading a statement. Is he entitled to read for all the clarifications we seek ?

Mr. SPEAKER.—The Minister can do that if it is a policy statement.

Sri D. B. KALMANKAR.—Is it a policy statement ? I think it is not a policy statement.

Mr. SPEAKER.—I want to know from the Hon. Minister whether it is a policy statement.

Sri P. M. NADGOUDA.—It is an interpretation of law and so I can make a statement like this.

Sri H. SIDDHAVEERAPPA.—Sir, it may be taken as read.

Sri S. SIVAPPA.—The Hon. Minister has to reply to the debate.

Mr. SPEAKER.—It is not a debate. The Hon. Minister may please say it in short.

Sri P. M. NADGOUDA.—Sir, Article 301 of the Constitution of India.....

Sri K. H. PATIL.—Sir, what about my point of order. My point of order is : a Minister cannot read a reply on the points of orders raised by several Hon. Members.

Mr. SPEAKER.—I would like to hear the Hon. Minister for Parliamentary Affairs in this matter.

Sri K. PUTTASWAMY.—Sir, any Member of the Government can make a statement and the statement could be a written statement read in this House or it may be extempore. But during discussions, whether it is a Minister or any Hon. Member of the House, he could refer to notes but cannot read a statement.

Mr. SPEAKER.—So the Hon. Minister for Co-operation may refer to his notes and not read the Statement.

ಶ್ರೀ ಪಿ. ಎಂ. ನಾಡಗೌಡ.—ಮಾನ್ಯ ಅಧ್ಯಕ್ಷರೇ, ಈ ಒಂದು ವಿಷಯದ ಮೇಲೆ ಈ ಮಹಾ ಮನೆಯಲ್ಲಿ ಈ ಒಂದು ಆರ್ಟಿಕಲನ್ನು ಮತ್ತು ಬಿಲ್ಲನ್ನು ತರುವುದಕ್ಕೆ ಮೊದಲು ಅಧ್ಯಕ್ಷರ ಒಂದು ಮನ್ನಣೆ ಬೇಕು, ಆ ಮನ್ನಣೆ ಇಲ್ಲದೆ ಇದನ್ನು ತರುವುದಕ್ಕಾಗುವುದಿಲ್ಲ ಎನ್ನುವ ಮಾತನ್ನು ಮಾನ್ಯ ಸದಸ್ಯರು ಇಟ್ಟಿದ್ದಾರೆ. ಮುಖ್ಯವಾಗಿ ರಾಜ್ಯಾಂಗ ಘಟನೆಯ ಆರ್ಟಿಕಲ್ 304 (ಬಿ) ಪ್ರಕಾರ ಅಧ್ಯಕ್ಷರ ಮನ್ನಣೆ ಬೇಕು. ಮನ್ನಣೆ ಇಲ್ಲದೆ ಇರುವುದರಿಂದ ಇದು ಕ್ರಮವಾಗಿಲ್ಲ ಮತ್ತು ಕಾಯಿದೆ ಬದ್ಧವಾಗಿಲ್ಲ ಎಂದು ಮಾನ್ಯ ಸದಸ್ಯರು ಹೇಳಿದರು. ಅದಕ್ಕೆ ನಾನು ಹೇಳುವುದು ಈ ಕಾಯಿದೆಯನ್ನು ಅಧ್ಯಕ್ಷರ ಮನ್ನಣೆ ತೆಗೆದುಕೊಂಡಾದಮೇಲೆ ತೆಗೆದುಕೊಳ್ಳಬೇಕು ಎನ್ನುವ ವಾದ ಏನು ಇದೆ ಅದು ಕಾಯಿದೆ ಬದ್ಧವಾಗಿಲ್ಲ. 1966 ರಲ್ಲಿ ರೆಗ್ಯುಲೇಷನ್ ಆಫ್ ಜೈಡ್ ಮಾಡಿ, 1968 ರಲ್ಲಿ ಆ ಕಾಯಿದೆಯನ್ನು ಜಾರಿಗೆ ತಂದಾಗ, ಅಧ್ಯಕ್ಷರ ಮನ್ನಣೆ ಇತ್ತು. ಆದರೆ ಈ ಕಾಯಿದೆ ಸರ್ಕಾರದವರು ಅನಾವಶ್ಯಕವಾಗಿ ಮಾಡಬೇಕಾದ್ದಾರೆ ಎಂದು ಹೇಳುವ ಮಾತು ಸರಿಯಲ್ಲ ಎಂದು ಹೇಳಬಹುದು.

ಈ ಒಂದು ರೆಗ್ಯುಲೇಷನ್ ಅಮೆಂಡ್‌ಮೆಂಟ್ ಮಾಡುವಾಗ ರೆಸಿಕ್ಯೂಷನ್ ಆಫ್ ಜೈಡ್ ಅಂಡ್ ರೆಸಿಕ್ಯೂಷನ್ ಆನ್ ದಿ ರೆಗ್ಯುಲೇಷನ್ ಆಫ್ ಜೈಡ್ ಅಂಡ್ ಕಾಮರ್ಸ್, ಇದನ್ನೆಲ್ಲಾ ಮಾಡುವುದಕ್ಕೆ ರಾಜ್ಯಸರ್ಕಾರಕ್ಕೆ ಅಧಿಕಾರ ಕೊಟ್ಟಿದೆ. ಅದಕ್ಕೆ ಅಧ್ಯಕ್ಷರ ಮನ್ನಣೆ ಅವಶ್ಯವಾಗಿಲ್ಲವೆಂದು ಹೇಳಬಹುದು.

ಮುಖ್ಯವಾಗಿ ಇನ್ನೊಂದು ವಿಷಯ ಏನೆಂದರೆ, ಮಾನ್ಯ ಸದಸ್ಯರು ಇದರಲ್ಲಿ ಬಹಳ ರಿಸಿಕ್ಯೂಷನ್ ಹಾಕಿದ್ದಾರೆ ಎನ್ನುವ ಮಾತನ್ನು ಹೇಳಿದ್ದಾರೆ. ನಾನು ಈ ಕುರಿತು ವಿಷಯದಲ್ಲಿ ಹೇಳಬೇಕಾದರೆ ಎಷ್ಟೋ ಕುಟುಂಬಗಳು ಫೇರ್‌ಮನ್ ಇಲ್ಲದೆ ಕೆಲಸ ಮಾಡುತ್ತಿವೆ. ಮಾನ್ಯ ಹೈಕೋರ್ಟಿನವರು ಎರೆಕ್ಷನ್ ಬಗ್ಗೆ ಒಂದು ಆರ್ಟಿಕಲ್ ಮಾಡಿದ್ದಾರೆ. ಅದೇನೆಂದರೆ 1966 ರಲ್ಲಿ ಮಾಡಿದ ಹೊಸ ಕಾಯಿದೆ ಪ್ರಕಾರ ಎರಡು ವರ್ಷದವರೆಗೆ ಸರ್ಕಾರದವರು ನಾಮಕರಣ ಮಾಡಬಹುದು. ಹಾಗೆ ನಾಮಕರಣ ಮಾಡಿ ಎರಡು ವರ್ಷದ ಮೇಲೆ ಎರೆಕ್ಷನ್ ಮಾಡಬೇಕು ಎಂದು. ಆದರೆ ಪ್ರಕಾರ ಸರ್ಕಾರದವರು ಎರಡು ವರ್ಷದವರೆಗೆ ನಾಮಕರಣ ಮಾಡಿದ್ದಾರೆ; ಮತ್ತು ಶ್ರೀಫುಡ್‌ಲೈ ಎರೆಕ್ಷನ್ ಮಾಡುವುದಕ್ಕೆ ಮಾನ್ಯ ಸದಸ್ಯರ ಅಭಿಪ್ರಾಯವನ್ನು ತೆಗೆದುಕೊಂಡು ಈ ಮನೆಯ ವ:ನ್ನಣೆಯನ್ನೂ ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೆ ಇದನ್ನು ಇಟ್ಟಿದ್ದೇವೆ. 1966 ರಲ್ಲಿ ಮಾಡಿದಂಥ ಕಾಯಿದೆಯನ್ನು 1968 ರಲ್ಲಿ ಏಕಾಏಕಿ ಜಾರಿಗೆ ಕೊಡುವುದಕ್ಕೆ ರೈತರ ವಿರೋಧವಿದೆ ಮತ್ತು ಕಾನ್‌ಸ್ಟಿಟ್ಯೂಷನ್ ಅಬ್ಸಕ್ಯನ್ ಇದೆ ಎಂದು ಶ್ರೀಮಾನ್ ಸಿದ್ದವೀರಪ್ಪನವರು ಹೇಳಿದರು. ಆದರೆ ನಾನು ಹೇಳುವುದು ಈ ಆರ್ಟಿಕಲನ್ನು ಮತ್ತು ಬಿಲ್ಲು ಏನು ಇದೆ ಅದು ಪರ್‌ಫೆಕ್ಟ್ ಲಿಂಗರ್ ಮತ್ತು ಕಾನ್‌ಸ್ಟಿಟ್ಯೂಷನ್ ಆಗಿ ಇದೆ. ಆದ್ದರಿಂದ ದಯವಿಟ್ಟು ತಾವು ಈವೊತ್ತು ಮೂವ್ ಮಾಡುವುದಕ್ಕೆ ಮನ್ನಣೆ ಕೊಡಬೇಕು ಎಂದು ಕಳಕಳಿಯಿಂದ ಕೇಳಿಕೊಳ್ಳುತ್ತೇನೆ.

4-00 P.M.

Sri K. PUTTASWAMY.—Sir, I would like to refer to the arguments advanced by the Hon. Leader of the Opposition. He stated that we have wasted time. In all humility, I submit that we have not wasted time.

Sri H. SIDDAVEERAPPA.—He did not say so.

Sri K. PUTTASWAMY.—The Hon. Member may kindly refer to the proceedings.

There has been a very illuminating discussion on this point and, therefore, I maintain that we have not wasted time. The time of this House has been very valuably spent.

Another suggestion he made was to invite the Advocate-General to speak on this point. Equally eminent Members who have had very rich experience as advocates have spoken. As far as I am concerned, my mind is very clear that there is no need to invite the Advocate-General to speak on this point because the Hon. Members Sir Siddaveerappa, Sri K. H. Patil, Nanje Gowda and several other Members have all made their points very clear. I am sure, after I advance my arguments, you will be able to come to a correct decision.

Sir, I do not know how as imple point escaped the notice of the Hon. Member Sir Siddaveerappa. He drew the attention of this House to Rule 70 and stated that we have violated Rule 70. If we have violated Rule 70, I have no right to request you to permit us to introduce the Bill. *Ipso facto* we will not be able to introduce this Bill unless we are satisfied of the requirement of Rule 70. I would like to request the hon. Member to refer to Rule 71 of the Rules of Procedure and Conduct of Business in the Mysore Legislative Assembly. If any hon. Member were to turn round and say that the explanatory statement is not satisfactory, it is a different matter altogether. These points can be discussed at the time of the consideration of the Bill. For the present, it would suffice if I pointed out to these hon. Members that the requirement of Rule 71 has been fulfilled. I do not claim any infallibility. I will advance such arguments as I can. I am sure, with your experience, you will be able to fill up the omissions, if any. I am very thankful to the hon. Members for drawing my attention at this stage itself to sub-rule (2) of Rule 70. Hon. Member Sri Nanje Gowda drew our attention to it when he spoke. If we read it, it becomes very clear. I can very well appreciate the position of the hon. Members who spoke because they were suddenly called upon to speak on this point. I have an additional advantage. If I am able to refer to this point, it does not mean that I shall be able to display any better knowledge on these matters. The hon. Members have spoken for one hour. In the meantime I was able to refer to some of these points. Sub-rule (2) of Rule 70 reads thus :

“Whenever an Ordinance, which embodies wholly or partly or with modification the provisions of a Bill pending before the the Assembly, is promulgated a statement explaining the circumstances which necessitated immediate legislation by Ordinance shall be laid on the Table at the commencement of the session following the promulgation of the Ordinance.”

That circumstance does not exist here. It refers to a Bill pending before the Assembly. Whenever a Bill is placed before the House, the

House is seized of the matter. When the House is not in session, supposing, the Government comes to the conclusion that urgent legislation is necessary.

Sri H. SIDDAVEERAPPA.—The House is seized of the very same matter because Bill No. 9 or so, moved by the hon. Member Sri K. H. Patil, is pending before this House on the very same points and on the very same clauses. They are not disposed of. The Bill was moved and is pending.

Sri K. PUTTASWAMY.—I will finish my arguments and then I will refer to the objections raised by the hon. Member Sri Siddaveerappa.

The Bill that we have introduced before this House was not pending. The sub-rule states: "Whenever an Ordinance, which embodies wholly or partly or with modification the provisions of a Bill pending before the Assembly, is promulgated..." I maintain that in the Bill that the hon. Member Sri K. H. Patil has introduced, these provisions are not there. They are totally different.

Sri K. H. PATIL.—May I take it as a true statement?

Sri K. PUTTASWAMY.—If necessary, you may kindly read these provisions again for the benefit of the House. I maintain that the provisions that are introduced into this Bill or Ordinance are not in the Bill that has been introduced by Sri K. H. Patil. Therefore, we were not obliged to fulfil the requirement of Rule 70 (2), which requires us to lay on the Table of the House a statement at the commencement of the session.

Sri H. SIDDAVEERAPPA.—Then why was an ordinance issued?

Sri K. PUTTASWAMY.—That will be the subject matter of discussion at the consideration stage of the Bill.

A very important point has been raised. India is one country and, therefore, Part XIII of the Constitution makes it very clear that there shall be no obstruction to trade, commerce and intercourse throughout the territory of India except as provided in Part XIII. Article 301 says:

"Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free."

So, it is not as if there cannot be any impediment at all. Impediment, if any, created by law should conform to the restrictions and requirements that are found in Part XIII.

Three points arise when we take into consideration Part XIII of the Constitution. The first is public interest. The second is the restriction on trade, commerce and intercourse in the country. The third is regulations. These are the three concepts which come into play, when we consider this question.

(SRI K. PUTTASWAMY)

As far as public interest is concerned, in the subjects which are included in Lists II and III of the Seventh Schedule, this House is supreme. So also the Parliament is supreme as far as subjects contained in List I and III are concerned when it legislates. When this House comes to a decision that a particular legislation is required in the interests of the public, that cannot be a matter for the Courts to consider. It is not at all justiciable. Therefore, that point is not for our consideration.

The other point is, whether there are any restrictions? Restrictions can be placed under Art. 302, which reads:

“Parliament may, by law impose such restrictions on the freedom of trade, commerce or intercourse between one State and another or within any part of the territory of India as may be required in the public interest.”

If there are any restrictions here, as argued by certain hon. Members, sanction of the President is not going to cure because this House is not empowered under the Constitution to pass any law which would restrict trade, commerce and intercourse in the country. It is contended by the hon. Members that it is going to restrict trade or movement of goods. Then, in all humility, I submit that this House will not be competent to consider and pass that legislation at all. If it is only regulatory, then alone this House can consider that legislation. I heard my friend Sri Nanje Gowda saying this point and the Opposition has also been harping on the point that this legislation cannot proceed further on account of the fact that the Government have not been able to obtain sanction from the President. All the while the Opposition has been arguing that the sanction of the President has not been obtained, and therefore, this House cannot proceed to consider this Bill. It is not the case of the Opposition that this bill imposes restrictions. They say, it requires the sanction of the President. It is well-known that both the State and the Centre can legislate as far as the subjects contained in List III of the Seventh Schedule. It may so happen that the Centre may have already legislated in exercise of the powers conferred on them by List III of VII Schedule. Therefore, it becomes necessary for the Government to obtain sanction of the President for a Bill which deals with matters in List III of VII Schedule.

A point was made out by my friend Sri Nagappa that this legislation did not require at the beginning the sanction of the President for introduction of the Bill in 1966 and Sri Siddaveerappa was anxious that I should reply to that point also. In the original Act, there are some sections, in my humble opinion, which do require the sanction of the President. For example, take Section 67 (Power to stop vehicles). Then it was in the mind of the Joint Select Committee which made the recommendation, that sanction of the President should be obtained.

I would like to submit another point. As you are aware, several decisions were cited by the hon. Members of this House. A law has been laid down by the Supreme Court clearly in several decisions—from 1962 to 1969. As a matter of abundant precaution, perhaps it became necessary then to obtain the sanction of the President for the introduction of the Bill as recommended by the Joint Select Committee. The two earlier decisions in 1962 have made the position very very clear. There is absolutely no room for doubt. You may kindly permit me to read *in extenso* one paragraph from the AIR Supreme Court judgement (*Automobile Transport Ltd. v. State of Rajasthan*):

“The most serious objection to the widest view canvassed before us is that it ignores altogether that in the conception of freedom of trade, commerce and intercourse in a community regulated by law freedom must be understood in the context of the working of an orderly society. The widest view proceeds on the footing that Art. 301 imposes a general restriction on legislative power and grants a freedom of trade, commerce and intercourse in all its series of operations, from all barriers, from all restrictions, from all control and from all regulation, and the only qualification that is to be found in the article is the opening clause, namely, subject to the other provisions of Part XIII. This inactual practice will mean that if the State Legislature wishes to control or regulate trade, commerce and intercourse in such a way as to facilitate its free movement, it must yet proceed to make a law under Art. 304 (b) and no such Bill can be introduced or moved in the Legislature of a State without the previous sanction of the President. The practical effect would be to stop or delay effective legislation which may be urgently necessary. Take for example a case wherein the interests of public health, it is necessary to introduce urgently legislation stopping trade in goods which are deleterious to health like the trade in diseased potatoes in Australia. If the State Legislature wishes to introduce such a bill, it must have the sanction of the President. Even such legislation as imposes traffic regulations would require the sanction of the President. Such an interpretation would, in our opinion, seriously affect the legislative power of the State Legislatures which power has been held to be plenary with regard to subjects in list II. The States must also have revenue to carry out their administration and there are several items relating to the imposition of taxes in list II. The Constitution makers must have intended that under those items the States will be entitled to raise revenue for their own purposes. If the widest view is accepted, then there would be for all practical purposes, an end of State autonomy even within the fields allotted to them under the distribution of powers envisaged by our Constitution. An examination of the entries in the lists of the Seventh Schedule to the Constitution would show that there

(SRI K. PUTTASWAMY)

are large number of entries in the State list (list II) and the Concurrent list (list III) under which a State Legislature has power to make laws. Under some of these entries the State Legislature may impose different kinds of taxes and duties such as property tax, profession tax, sales tax, excise duty, etc., and legislation in respect of any one of these items may have an indirect effect on trade and commerce. Even laws other than taxation laws, made under different entries in the lists referred to above, may indirectly or remotely affect trade and commerce. If it be held that every law made by the Legislature of a State which has a repercussion on tariffs, licensing, marketing regulations, price-control etc., must have the previous sanction of the President, then the Constitution in so far as it gives plenitude in the fields allocated to them would be meaningless. In our view the concept of freedom of trade, commerce and intercourse postulated by Art. 301 must be understood in the context of an orderly society and as part of a Constitution which envisages a distribution of powers between the States and the Union, and if so understood, the concept must recognise the need and the legitimacy of some degree of regulatory control, whether by the Union or the States: This is irrespective of the restrictions imposed by the other articles in Part XIII of the Constitution. We are, therefore, unable to accept the widest view as the correct interpretation of the relevant articles in Part XIII of the Constitution."

SRI H. SIDDAVEERAPPA.—The very same authority has been referred to and they held differently. Especially the observations of Justice Hegde may be looked into.

SRI K. PUTTASWAMY.—In all humility I submit that the principles laid down in the decision which I referred to have been followed in subsequent decisions also. Therefore, I maintain that for a Bill of this nature the sanction of the President was not necessary.

I now come to the last point. You, Sir, pertinently called upon the hon. Members to point out which of the provisions in the Bill are going to restrict trade or even regulate trade. In the Bill that is now sought to be introduced in this House, there are no provisions which are going to restrict the trade.

SRI H. SIDDAVEERAPPA.—Suppose tomorrow your Excise Commissioner says, "Do not enter here"?

SRI K. PUTTASWAMY.—If he arbitrarily prevents any person, he will face the consequences. So far as I can see, non of the provisions contained in this Bill are restrictive in nature.

The sum and substance of this Bill is to replace the existing market committees by an Administrator and the reasons and urgency for doing so can only be the subject of discussion during the consideration stage. Therefore, I am not referring to those points. As far as I am concerned, at this stage the provisions of this Bill are not restrictive in nature or are not going to restrict the trade or there is not even an attempt to regulate the trade. I therefore submit that there is no force in the point of order raised by the hon. Member Sri Siddaveerappa and I would request you, Sir, to rule that the introduction of this Bill is in order and that it may be introduced.

Sri K. H. PATIL.—Sir, this is a Bill identical to the one I had brought before this House. The definition clause in my Bill is sought to be modified in another form. I intended to introduce to a democratic measure but the Government wanted to kill it by their dictatorial act. The Hon. Minister maintained that there are no restrictions whatsoever. I am glad he was referring to section 67. Section 67 cannot come into the picture at all. Section 63 empowers the market committee to regulate and impose restrictions. Here therefore section 63 has been amended. The entire nature and tenor of the Act has been changed by introducing the dictatorial Administrator. Therefore it is very necessary that the assent of the President should be obtained. If the assent is not necessary, I do not know why our Constitution should be respected. I appeal to the Speaker to reject the introduction of this Bill and thus set a good example to these Administrators and see that they do not commit such blunders in future.

Sri H. M. CHANNABASAPPA.—Will not the location of market yards and other provisions in section 6 amount to placing restrictions on movement of commodities which means restriction on trade?

Sri AZEEZ SAIT.—By inviting members for tea and not coming for tea at the proper time, the Chair is insulting the members.

Mr. SPEAKER.—I do not understand.....

Sri AZEEZ SAIT.—You will never understand things. Why do you invite us?

Mr. SPEAKER.—That is not the way of addressing the Chair. It is for the hon. Member to accept it or reject it. I have heard all the hon. members on the point of order raised.

Sri H. N. NANJE GOWDA.—I request the Chair to give a considered ruling tomorrow.

Mr. SPEAKER.—The first point of order was that this Bill and the Ordinance were not placed as required by Rule 70 of the Rules of Procedure. As regards rule 70(1), it may be stated that the Bill contains a statement explaining the circumstances which necessitated immediate legislation by Ordinance. Therefore, the objection that such statement was not placed under rule 70(1) is not correct.

(MR. SPEAKER)

As regards the provisions of rule 70(2), it is stated by the hon. Members Sri K. H. Patil and others that there is already a Bill pending before this House and during the pendency of that Bill this Ordinance has been issued.

I just sent for the Bill and went through it. I may bring to the notice of the hon. Members that there are two clauses. Clause 2 speaks of amendment to sub-section (20) of section 2. The present Bill and the ordinance also do not at all refer the amendment or otherwise of the definition contained in sub-section 20 of Section 2 of the principal Act. Another provision in the Bill, clause 3, introduced by the hon. Member Sri K. H. Patil seeks to amend sub-section iv(c) of section 10. The amending Bill and the ordinance here do not seek to amend sub-section iv(c). Therefore it is not necessary to consider the provisions of rule 70 sub-rule 2. Even supposing there was a lapse on the part of the Government to put this on the day of the commencement of the session, this provision is not so imperative as to vitiate all the subsequent proceedings. It can be cured by the fact that this legislation and the ordinance have been placed on the Table of the House at the earliest opportunity. This is not to be a matter which prevents the introduction of a Bill by the Hon. Minister for Co-operation.

The other point referred to is the objection taken under Article 304 (b) proviso. With respect to interpretation of this constitutional procedure, I would be guided by the decisions of the Supreme Court that have been brought to the notice of the hon. Members. The Hon. Member Sri H. N. Nanje Gowda said that it is not for me to interpret the Constitutional provision. I have no hesitation in agreeing with that view. I am not going to interpret the constitution and the provisions thereof. The function of interpreting the law belongs to the judiciary and not to the legislature. Therefore whenever there is difference in the interpretation of a particular constitutional provision, I think the best forum for the interpretation belongs to the judiciary and not to either this House or to me. But whenever an objection under certain provisions of the constitution is taken and those provisions are pleaded against the introduction or consideration of any Bill or measure that comes before me, it is for the Chair to find out *prima facie* whether there is anything in the Bill which contains errors or certain patent facts which attract the provisions of the Constitution. Of course, it is for me to say *prima facie* whether there is anything in the Bill to say that it should not be permitted to be introduced here. That is the sole function that I am going to perform. I am not going to interpret the rule or constitutional provision particularly proviso to Art. 304 (b). All the decisions cited here point to one thing and that is, the Supreme Court have made a distinction between regulatory and compensatory laws and restrictive laws. There is certain difference between the two. They say that if

the provisions of any Bill or law are such as to restrict directly or immediately the trade, commerce and intercourse between State and State or within the same State, the provision of Art. 304(2) might be attracted.

But they have pointed out that there may be certain regulations which are regulatory in nature and not restrictive. For instance, there are traffic regulations. For the purpose of traffic regulations, the hon. Members know that there are traffic police standing at the place, giving signals to the motorists and others to stop the vehicles at a particular place and allowing them to go. Like that there are so many regulations which are meant to regulate the movement of traffic and movement of trade. Therefore the question is whether the present amendment sought to be made by introducing the Bill come within the mischief of Art. 304 (2) proviso. I have gone through the various provisions carefully and I find that they provide for power to the Chief Marketing Officer to make a declaration that a particular place is a market or sub-market or yard or sub-yard. All these provisions are already there in the parent Act and only for convenience, in the light of the experience gained, some power is sought to be given to the Chief Marketing Officer to make certain alterations. I think declaring certain alterations, markets or sub-markets or yards or sub-yards, are matters which do not in any way restrict the movement of trade, movement of traffic, movement of commerce and intercourse. This is a sort of machinery which is intended to regulate the traffic. Of course, it is for the hon. Members to decide whether to accept or reject the amendments. But the only point is whether these declarations of market area or yard or sub-yard are going to affect in any way the trade and commerce as such. There are no provisions in the amending Bill to restrict the producers to a particular place.

Sri K. H. PATIL.—May I point out that there is restriction even on the agriculturists?

Mr. SPEAKER.—An agriculturist is not bound to take to market area.

Sri S. SIVAPPA.—By placing the entire responsibility on an Administrator, are you not restricting the democratic process?

Mr. SPEAKER.—I may assure the hon. Member that I am going to deal with that point also. Giving of some powers to the Chief Marketing Officer to constitute a market area or sub-market or yard, will not in any way restrict trade and commerce or intercourse. Therefore, on this ground I feel that the objection taken by the hon. Members are not correct.

The hon. Member Sri Sivappa and others have said that there is transitory section (154-A) which is sought to be added. Under that clause one officer will be in a position to undertake the duties and responsibilities and the powers of the committees. What is sought to be made out is, if one officer is to take over the responsibilities, powers

(MR. SPEAKER)

and duties of these committees, it would amount to restriction of trade. I think the idea is not correct. I can understand hon. Members saying that it is undemocratic. The hon. Members are within their powers to advance such arguments at the appropriate stage. But, putting one of these officers in place of the Committee to discharge the functions and duties of their office is not in any way going to restrict the trade or alter the rules or procedure. Any officer is bound to obey the rules and the provisions of the Act.

Sri M. NAGAPPA.—He is competent to make bye-laws also ?

Mr. SPEAKER.—Hon. Members may call it undemocratic if they like, but it is not going to restrict trade. If the bye-laws offend the purpose, Hon. Members can take necessary action, and the Subordinate Legislation Committee is there to look into it. Simply because an officer is sought to be placed in charge of the duties as a transitory measure pending elections, as I understand, it is not going to restrict the flow of trade and commerce or transport of goods. Taking this view, as I do, I think the objections taken to the introduction of this measure are not correct, and I rule accordingly.

I call upon the Hon. Minister to introduce the Bill.

Sri P. M. NADGOUDA.—Sir,.....

Sri K. H. PATIL.—I rise to a Point of Order.

Sri P. M. NADGOUDA.—Sir, I introduce.....

Sri K. H. PATIL.—Sir, is it proper on the part of the Minister to do so ? I raise a Privilege Motion here against the Hon. Minister, Sri Nadgouda. How can he ignore the privileges of members ?

Sri H. SIDDAVEERAPPA.—Sir, when Sri K. H. Patil was on his legs with a Point of Order, the Hon. Minister went on reading like a *mantra* being chanted during marriages so that nobody could hear it.

Sri P. M. NADGOUDA.—I was called by the Hon. Speaker to introduce the Bill.

Sri H. N. NANJE GOWDA.—Sir, I argued that this legislation would become *ultra vires*. But, you have not given a Ruling to that effect. The original Act has been repealed. But to give life again to this Section 154, I should say, is certainly prescribing more and more restrictions. This is an *ultra vires* Bill. You may give your Ruling stating that it is not *ultra vires*, and then I will be satisfied.

Sri V. N. PATIL.—Sir, I have a Point of Order. Sir, I am not questioning your Ruling. But something has cropped up in the Ruling which deserves serious consideration by the Chair. If the Government is serious to see that this law comes into force, haste should not be the one word which we should follow. Simply because they are in a majority, such Bills should not be passed in haste and they should not be in a hurry.

Mr. SPEAKER.—I have already given my Ruling.

Sri V. N. PATIL.—Hurriedly doing something and subsequently allowing the High Court to comment on it and then keeping this law in a cold storage, will not in any way help the ryots. Therefore, it is very necessary that the suggestions of Sri Nagappa and Sri K. H. Patil be taken into consideration and the Chair may amend its Ruling by considering sympathetically what I have said. Let us be careful and cautious before something is said.

Mr. SPEAKER.—My Ruling should be respected. Sri H. N. Nanje Gowda said that the Bill is *ultra vires*. Whether it is *ultra vires* or not, it is a matter for the Court to decide. I am here to see *prima facie* if there is anything which goes against the introduction of the Bill. As regards the point raised by Sri K. H. Patil, to which a reference was made by Sri V. N. Patil, I think, what I have stated is correct. To say that an officer will misuse his powers and therefore it is *ultra vires*, is not correct. I have said nothing which is wrong. The Hon. Minister may introduce the Bill.

Sri P. M. NADGOUDA.—Sir, I beg.....

Sri K. H. PATIL.—As long as I have got legal knowledge, I should not allow such an illegal act to be introduced by the Hon. Minister.

Mr. SPEAKER.—Is there any Point of Order, and if so, what is it?

Sri K. H. PATIL.—Sir, Rule 69 of the Rules of Procedure and Conduct of Business of the Mysore Legislative Assembly reads as follows :

“A Bill, involving proposals for the delegation of legislative power shall further be accompanied by a memorandum explaining such proposals and drawing attention to their scope and stating also whether they are of normal or exceptional character.”

I want to know whether provision of providing a memorandum has been complied with before the Bill is introduced. I want to know whether the proposals for the delegation of legislative power are of exceptional character or whether they are of normal character. If they are of exceptional character what are the powers that have been delegated to the Officers? Why I am saying this is that the law-making power vests with the Legislature. The delegation of power has been given by the Government. The Supreme Court has held that such a delegation of power is absolutely wrong. I am not a Lawyer to interpret it in detail. I did not think that such a Bill would come up before us. This lacuna which has been clearly pointed out by the Supreme Court should not be brushed aside. A Bill of this nature cannot be introduced for the reason that a statement pertaining to delegation of powers has not been given in clear terms. They have to work out all the details and give a memorandum in detail. It is not enough to come out and say that about Rs. 10 lakhs are required. What the legal procedure

(SRI K. H. PATIL)

requires is that every legislative Department should sit together and examine the pros and cons of the Bill. The Government has not even followed the basic principles that are necessary in this regard. In the absence of two Houses, the Government have recommended to the Governor to promulgate the ordinance. The reason they have given is 'urgency'. What was the urgency and I want to know whether the Government would have collapsed if the ordinance was not issued. This is nothing but a colourable ordinance promulgated just to suppress some of their opponents. The Hon'ble Minister wants to suppress some of his opponents by this method. He wants to conceal the defects that are committed by him for which I demanded the constitution of a Committee. I demanded the Chief Minister to make a thorough investigation into those defects. If any impartial enquiry is conducted I am afraid the Hon'ble Minister may lose his Ministership. Therefore, I appeal to you that to protect democracy this Bill should not be allowed to be introduced. I expect that democracy is safe in the hands of the Speaker. Nothing will happen if the introduction of the Bill is delayed for some days. In the meanwhile, you can please examine the various legal lacuna in the light of the decision by the Supreme Court and also by the High Court. Of course, they have got majority. The only thing for us is to exercise our right through you. Therefore, I request the Hon' Speaker not to give his judgement but to examine all these points in the light of the decisions given by the Supreme Court and also by the High Court and then give his considered ruling. This Bill cannot be introduced at any rate now.

Sri H. SIDDAVEERAPPA.—Under Article 213, it is clearly stated that "if an ordinance is to be issued there must be some immediate necessity." The Government must be satisfied that something extraordinary would happen if the ordinance was not issued. The wording in the Article is very clear. It reads as follows :

"213: If at any time, except when the Legislative Assembly of a State is in Session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such ordinances as the circumstances appear to him to require :"

In this connection, I want to know what was the necessity for the Government to issue the Ordinance in such a haste. What were the circumstances that necessitated the Government to recommend to the Governor to issue that ordinance? I don't want to argue much on this point.

Mr. SPEAKER.—The point is whether the Bill is to be introduced. The hon. Member can freely put forth his arguments when the Bill is taken up for consideration.

Sri H. SIDDAVEERAPPA.—What I am saying is we have got so many things just to show the malafide intentions of the Government, particularly of the Minister in charge in bringing this measure.

Mr. SPEAKER.—There are only two points and they are the delegation of legislative power and the financial memorandum. These points are to be clarified.

Sri K. PUTTASWAMY.—Three points were raised by Sri K. H. Patil against the introduction of the Bill. It is very strange that repeated points of orders are being raised against introduction of the Bill.

Sir, the first point is, he referred to rule No. 69 which requires a memorandum to be given and then he read the memorandum itself. I need not add further that there was no force in his objections. He said the memorandum was inadequate and that is a point for him to raise during the consideration of the Bill. At this stage whether the memorandum has been furnished or not is the only point for consideration. Memorandum has been furnished.

In regard to the delegation of powers, there is absolutely no provision in this Bill. Powers are being given by this House itself through several provisions. If there is delegation of powers by the authority to which this House gives power, then we will have to point out the extent of delegation and the authority which is delegating the powers. But there is absolutely no delegation of powers in this Bill. I am surprised that such an objection is raised. It would be rather uncharitable for me to say that these points of orders are raised just to prevent the introduction of the Bill. I am sure Sir, the hon. members on the opposition side will not succeed in their efforts.

Then, Sir, in my humble view, there was sufficient urgency for the introduction of this Bill. The hon. members of the opposition are entitled to hold a different view. I am quite sure they will argue on their views and if this House accepts their views, to that extent the Government is defeated. Moreover, Sir, as you have rightly pointed out, the ordinance is not in question now. The hon. Member Sri Nagappa has tabled a substantive motion for disapproving the action of the Government in having got this ordinance issued and if that resolution is passed then again the Government will be defeated and I am sure, Sir, a Government which is defeated on such an important matter cannot continue at all. Therefore, Sir, there is absolutely no force in any of the points raised by the hon. Member Sri K. H. Patil. With due respect I further submit, Sir, that points of orders, as you have already mentioned more than once and even yesterday you were pleased

(SRI K. PURTASWAMY)

to say that points of orders should not take much time. But it is our misfortune that points of orders are being repeated for hours and hours. I submit again that there is no force in the points raised by hon. Member Sri K. H. Patil and the hon. Chair will have to kindly rule it out of order.

SRI M. NAGAPPA.—Sir, my simple point is this. Just now the hon. Minister for Parliamentary Affairs stated that there is no provision in this Bill for delegation of powers to anybody. May I submit to the hon. Minister through you, Sir, to kindly look into clause 3 of the Bill. In sub-clause (2A) the Chief Marketing Officer has been given the power to issue notifications. The power to issue a notification is also a delegation of power which comes under subordinate legislation. The power to fix a market area is the function of this House and that function is being delegated to the Chief Marketing Officer who can declare it by issuing a notification. Therefore giving the power to issue a notification definitely amounts to delegation of powers and hence a memorandum for delegation of legislation is also necessary.

MR. SPEAKER.—I have heard the hon. Members. The first point raised by the hon. Member Sri K. H. Patil is that there is no memorandum with regard to delegation of legislation. Now the hon. Member Sri M. Nagappa has stated that even power to issue notifications amounts to delegated legislation. I am sorry I cannot accept the contention of the hon. Member Sri Nagappa. The Chief Marketing Officer is to use this power of issue of notifications in order to carry out the very purpose of this Act and that cannot be said to be a delegated legislation. I have gone through the Bill and I did not find any rule making power given thereunder either to the Government or to the subordinate officers. I am not at all satisfied that the absence of a memorandum under rule 69 of the rules of procedure vitiates this measure. Therefore I cannot uphold the point of order raised by the hon. Member Sri K. H. Patil. Now I call upon the Hon. Minister to move for the introduction of the Bill.

SRI P. M. NADGOUDA (Minister for Development).—Sir, I beg to introduce:

“The Mysore Agricultural Produce Marketing (Regulation) (Amendment) Bill, 1969.”

MR. SPEAKER.—The Bill is introduced.

SRI K. H. PATIL.—It is already 5 P.M. Sir. I suggest we may rise for the day.

MR. SPEAKER.—No, we are bound to sit till 7 O'clock, since we are not sitting on Saturday.